

## ORDINANCE NO. \_\_\_\_\_

1           AN ORDINANCE amending Chapter 5.36 of the Lincoln Municipal Code relating  
2 to Peddlers by amending Section 5.36.110 to clarify that hearings for the revocation of a peddler's  
3 permit shall be held before the Permit Review Board; amending Section 5.36.120 to establish the  
4 Permit Review Board, rather than the City Council, as the board to hear the appeal of an applicant  
5 denied a peddler permit; and repealing Sections 5.36.110 and 5.36.120 of the Lincoln Municipal  
6 Code as hitherto existing.

7           BE IT ORDAINED by the City Council of the City of Lincoln, Nebraska:

8           Section 1. That Section 5.36.110 of the Lincoln Municipal Code be amended to read  
9 as follows:

10   **5.36.110       Revocation of Permit.**

11           (a)   Permits issued under the provisions of this chapter may be revoked by the City Clerk  
12 of the city after notice and hearing for any of the following causes:

13                   (1)    Fraud, misrepresentation, or false statement contained in the application for  
14 the permit;

15                   (2)    Fraud, misrepresentation, or false statement made in the course of carrying  
16 on the permittee's business as a peddler;

17                   (3)    Any violation of this chapter;

18                   (4)    Conviction of any felony or crime involving moral turpitude.

19           (b)   Notice of the hearing for revocation of the permit shall be given in writing, setting  
20 forth specifically the grounds of complaint and the time and place of hearing before the Permit

1 Review Board. Such notice shall be mailed, postage prepaid, to the permittee at his or her last  
2 known address at least five days prior to the date set for hearing.

3 Section 2. That Section 5.36.120 of the Lincoln Municipal Code be amended to read  
4 as follows:

5 **5.36.120 Appeal.**

6 (a) Any person aggrieved by the action of the Chief of Police ~~or the City Clerk~~ in denial  
7 of an application for a permit ~~or in a decision with reference to the revocation of a permit as provided~~  
8 ~~in this chapter~~, shall have the right of appeal to the ~~City Council~~ Permit Review Board, consisting  
9 of the Chief of Police, the Director of Public Works and Utilities, and a citizen of the City of Lincoln  
10 appointed by the Mayor.

11 (b) Such appeal shall be taken by filing with the City Clerk, within fourteen days of the  
12 ~~action complained of~~ denial, a written statement setting forth the grounds for the appeal. The ~~council~~  
13 ~~City Clerk~~ shall set a time and place for hearing ~~on such appeal~~ thereon not less than eight days after  
14 the filing of the appeal. ~~and a~~ Notice of such hearing shall be given to the appellant in the same  
15 manner as provided in Section 5.36.110 of this chapter for notice of hearing on revocation.

16 (c) The appellant shall be given the opportunity to present any mitigating or extenuating  
17 circumstances relating to the disqualifying factor. If the Permit Review Board shall find, by clear  
18 and convincing evidence, that the disqualifying factor does not constitute a risk to the public and that  
19 the appellant is at least sixteen years of age or has obtained an employment certificate, the Permit  
20 Review Board shall direct the City Clerk to issue a permit. The decision and order of the ~~council~~  
21 Permit Review Board on such appeal shall be final and conclusive.

1                   Section 3. That Sections 5.36.110 and 53.6.120 of the Lincoln Municipal Code as  
2   hitherto existing be and the same is hereby repealed.

3                   Section 4. That this ordinance shall take effect and be in force from and after its  
4   passage and publication according to law.

Introduced by:

\_\_\_\_\_

Approved as to Form & Legality:

\_\_\_\_\_  
City Attorney

Approved this ____ day of _____, 2004:
_____ Mayor